



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting  
Open Session Minutes  
September 16, 2015

The Maryland-National Capital Park and Planning Commission met on September 16, 2015, at 9:30 a.m. at the Montgomery Regional Office in Silver Spring, Maryland.

PRESENT

Prince George's County Commissioners

Dorothy Bailey (arrived at 9:56 a.m.)  
Manuel Geraldo (arrived at 9:58 a.m.)  
John Shoaff

Montgomery County Commissioners

Casey Anderson, Vice-Chair (Chaired Meeting)  
Norman Dreyfuss  
Amy Presley  
Marye Wells-Harley

ABSENT

Elizabeth M. Hewlett, Chair  
A. Shuanise Washington

Natali Fani-Gonzalez

Vice-Chair Anderson convened the meeting at 9:39 a.m. As the Commission did not have a quorum to approve voting items at the time the meeting convened, Vice-Chair Anderson requested agenda items not requiring action be presented first. Upon the arrival of Commissioners Bailey and Geraldo, a quorum was met for all action items requiring a vote.

ITEM 1 APPROVAL OF COMMISSION AGENDA

Corporate Policy and Management Operations (CPMO) Division Chief Anju Bennett was acting on behalf of Executive Director Patricia Barney. Ms. Bennett advised that the Commission meeting agenda had been revised to remove former Item 5h, Annual Audit Committee Activity Report. This item will be moved to the October meeting agenda as some Department Heads and Commissioners were not able to attend the September Commission meeting. Ms. Bennett also reported that the title for Item 5b, Resolution #15-17 was revised to read "Amendments to Family Medical Leave Act Program: Calculation of 12-Month Eligibility Period."

ACTION: Motion of Presley to approve the agenda  
Seconded by Geraldo  
7 Approved the motion

ITEM 2 APPROVAL OF COMMISSION MINUTES

July 15, 2015 – Open Session  
July 15, 2015 – Closed Session

ACTION: Motion of Presley to approve the minutes  
Seconded by Geraldo  
7 Approved the motion

ITEM 3 GENERAL ANNOUNCEMENTS (Taken out of order)

Vice-Chair Anderson made the following announcements:

- a) September is National Hispanic Heritage Month. The Hispanic Heritage Festival is scheduled for September 20, 2015 at Lane Manor Park – 12:00 p.m. to 6:00 p.m. The One Commission Hispanic Heritage Celebration will be held on October 2, 2015 at Newton White Mansion – 11:00 a.m. to 1:00 p.m.
- b) October is Breast Cancer Awareness Month.
- c) October Kinderfest will be held on October 4, 2015 – Watkins Regional Park.
- d) The Upcoming Commission-wide Service Awards Luncheon Honoring Employees with 25 or More Years of Service will be held on October 21, 2015 – Newton White Mansion.

ITEM 4 COMMITTEE/BOARD REPORTS – (For Information Only)

- a) Minutes – Executive Committee Open Session – September 2, 2015
- b) Minutes – Executive Committee Closed Session – September 2, 2015

ITEM 5 ACTION AND PRESENTATION ITEMS

- a) Resolution #15-16, Affordable Care Act – Benefits for Contract Employees for 2016 (Legal/McDonald)  
Principal Counsel William Dickerson and Benefits Manager Jennifer McDonald presented the Resolution. Ms. McDonald provided background, stating that the Affordable Care Act (ACA) was established in 2010 and mandates employers with 50 or more employees to offer health care coverage to certain employees who work 30 hours or more per week. In 2015, the law required M-NCPPC to offer medical coverage to at least 70% of employees. In 2015, M-NCPPC met that requirement and did not need to extend benefits to its Seasonal/Intermittent employees. In 2016, the law requires employers to offer benefits to 95% of employees who work 30 or more hours a week. Therefore, M-NCPPC will need to offer coverage to qualified Seasonal/Intermittent employees.

In response to Commissioners' questions, Mr. Dickerson and Ms. McDonald provided the following:

- Eligibility for 2016: The employee must work a minimum of 1,560 hours/week in a twelve-month measurement period. The measurement period is tracked from October 2014 to October 2015 to determine an employee's eligibility for 2016.
- The agency is researching employees who are currently classified as Seasonal/Intermittent, and have reached the 1,560 hour target for purposes of offering health coverage. This research is part of Phase II of this project, and Phase II of the Vendor Transition project. Calculating the hours is extraordinarily complex under the ACA; therefore, outside counsel and a technology consultant are assisting with the calculation process.
- Seasonal/Intermittent employees will be offered medical and prescription benefits at the same rate as those offered to the Term Contract employees which is 65% for the employer and 35% for the employee.

- AON Consulting’s analysis predicts that out of the 200 Seasonal/ Intermittent employees who are potentially eligible for coverage, 23 will enroll in the agency’s health plan.

Ms. McDonald requested approval of Resolution #15-16, Affordable Care Act – Benefits for Contract Employees for 2016, which states that M-NCPPC will abide by the Affordable Care Act, and offer coverage to Seasonal/Intermittent employees working 30 hours/week or more starting in 2016.

ACTION: Motion of Bailey  
 Seconded by Dreyfuss  
 7 approved the motion

- b) Resolution #15-17, Family Medical Leave Act (Program Update) (Bennett)  
 CPMO Division Chief Bennett requested approval of Item 5b – Resolution #15-17, Family Medical Leave Act (FMLA) (Program Update). Ms. Bennett stated that a handout was distributed which reflects the revised title of the Resolution. All other contents of the Resolution are the same as the packet material.

Ms. Bennett shared that the Resolution codifies the Commissioners’ earlier decision to change the calculation method used to determine eligibility for leave under the FMLA. She stated this issue was discussed with the Commissioners in July. The FMLA allows employers to select from several methods. Currently M-NCPPC uses a calendar-year method, which means an employee can take up to 12 weeks of leave from January to December. At the beginning of the new calendar year, the employee would be eligible for an additional 12 weeks of FMLA leave, allowing an absence of 24 consecutive weeks. Therefore, the Commission supported the concept of moving to the rolling-year method. This method views the 12 months preceding the employee’s request to determine whether he/she is eligible for 12 weeks of leave. If the employee has used a portion of their FMLA leave allotment, he/she would be entitled to the balance of the 12 weeks of FMLA leave that had not been used.

Ms. Bennett explained that:

- M-NCPPC is targeting January 1, 2016, as the effective date.
- The FMLA regulations require any change in the calculation method be applied uniformly to the entire workforce. This change has been agreed to by the Unions. The Resolution will implement the change for the remaining workforce.
- All employees must receive a 60-day minimum notification of the change. This Resolution will allow adoption of the change and notification of the formal decision in time for the targeted effective date.

Ms. Bennett shared that specific implementation standards are being reviewed with the Merit System Board. Pending the Merit System Board’s review, she will return to the Commission for its review of those standards.

ACTION: Motion of Presley to approve the Resolution

Seconded by Bailey  
7 approved the motion

Resolution #15-18, Prince George's Bond Resolution (Zimmerman)

Secretary-Treasurer Zimmerman presented Resolution #15-18, Prince George's Bond Resolution, for adoption, authorizing the issuance of up to \$22 million of project bonds for Prince George's County projects. The issuance is in accordance with the Capital Improvement Budget as approved by the Prince George's Planning Board and the Prince George's County Council. The proceeds of the bonds will reimburse the Capital Projects fund for monies previously expended, as well as provide cash for projects currently in progress. Additionally, there is the possibility of effecting savings by refunding a portion of previously-issued debt. Finance is still working out the final size of the bond issue, and anticipating the amount will be somewhat less than \$22 million. The bonds are scheduled to be sold on October 15, 2015. Chair Hewlett, Executive Director Barney, and Secretary-Treasurer Zimmerman are scheduled to meet with the rating agencies in New York on September 28<sup>th</sup> and 29<sup>th</sup>.

ACTION: Motion of Bailey to adopt the Resolution  
Seconded by Shoaff  
7 approved the motion

d) CAS – Cost Allocation (Kroll)

Budget Manager John Kroll presented the Annual Central Administrative Services (CAS) Cost Allocation Analysis as included in the Commission packet. The recommendation was that the Commission adopt the update to the labor cost percentages used to allocate CAS department budgets between Montgomery and Prince George's Counties for the FY17 Proposed Budget. Mr. Kroll provided background information explaining that the cost allocation is developed annually, and considers the CAS departments/units that provide services to the two Counties. Mr. Kroll explained the methodology for developing the cost allocations as defined in the draft. He also provided background on the allocation of Group Insurance, CIO Labor Costs, and Risk Management.

ACTION: Motion of Wells-Harley to adopt the CAS – Cost Allocation  
Seconded by Dreyfuss  
7 approved the motion

e) Minimum Wage Pay Schedule Adjustments (Spencer/King)

Human Resources Director William Spencer and Human Resources Manager Boni King presented the Minimum Wage Pay Schedule Adjustments. The Commissioners were asked to support the FY16 Seasonal/Intermittent and Aquatics Seasonal/Intermittent Pay Schedules as contained in the meeting packet.

At the October 22, 2014 Commission meeting, the Commissioners directed that M-NCPPC pay schedules be reflective of the minimum wage rates consistent with that approved for both Montgomery and Prince George's Counties, as the Counties fund our agency. Increasing the minimum wage equal to the Counties would reduce the agency's turnover rate and would reduce costs of training new workers. Human

Resources Director Spencer explained the FY16 pay schedule will move October 2015 to \$9.55 per hour. In October 2016, it will move to \$10.75 per hour, and in October 2017, to \$11.50 per hour. He noted the pay schedules represent a change in the lower levels of each pay schedule to ease compression that would be created if only the change in minimum wage were implemented. The \$9.55 minimum wage for October 2015 would increase the direct labor costs by approximately \$436,595 (includes FICA increase) for the remaining months in FY16.

Commissioner Dreyfuss asked if M-NCPPC was required to adopt State minimum rates or County rates, and what the State's minimum wage is currently. Mr. Spencer responded that M-NCPPC is governed by State law. Ms. King stated that the agency had a choice based on legal counsel's advice. Prince George's County's rate and Montgomery County's rate are the same as what M-NCPPC adopted last year. Ms. King noted that the State Government had a slightly different phased-in approach. Mr. Spencer reviewed the State's hourly minimum wage increases.

Ms. Bennett clarified that the minimum wage options were presented to the Commission in October 2014. That discussion included a review of State minimum wages, as well as the position taken by Montgomery and Prince George's Counties. The Commission approved a Resolution in which it supported adoption of the same minimum wage rate adjustments as those adopted by the two Counties. The new minimum rate schedule was approved at that time. The matter before the Commission today is the adoption of the new pay scale.

Ms. King stated approval was being sought to implement the new pay schedules and to eliminate one of the lowest grades on the pay scale because it had not been utilized in 15 years.

**ACTION: Motion of Geraldo to approve the New Wage Pay Schedule Adjustments  
Seconded by Bailey  
7 approved the motion**

- f) Open Enrollment and Benefit Plans Proposed Rates 2016 (Spencer/McDonald)  
Human Resources Director Spencer and Benefits Manager Jennifer McDonald presented the Open Enrollment and Benefit Plans Proposed Rates for 2016 as contained in the meeting packet. The Commissioners were asked to approve the recommended rates for M-NCPPC's 2016 Benefit Plans.

Ms. McDonald explained that AON Consulting developed the Self-Insured Rates for M-NCPPC's medical and prescription plans. She outlined the items that AON used to develop the rates. Ms. McDonald reported that the rates for the agency's medical plans increased on average by 2.9%, with individual plan increases ranging from 0% to 11.8%. Rates for the agency's prescription plan increased by 20.7%. She explained the reason for the increase in the prescription plan was due to the increase in specialty drug utilization which are expensive. Commissioner Presley asked for clarification of the specialty drug use, asking if these drugs were being used in lieu of generic drugs. Ms. McDonald gave an example of a drug that would fall into this category, clarifying that generic drugs may not be available as an alternative. She added that the agency had implemented several cost savings

programs for the prescription plan, helping to contain cost increases. Premiums for stop loss coverage increased for all plans. The premiums for the fully insured plans remained flat for 2016, as they are all still within a guaranteed rate period.

Ms. McDonald recommended that the Group Insurance Fund's unreserved balance be used to offset the rate increases by 2%. Using the fund to offset 2% of the rate increase will cost the agency \$341,932. If the Commission adopts the recommendation, the Municipal and County Government Employees Organization (MCGEO) president will be notified. With regard to the Self-Insured Rates, Ms. McDonald made a correction to Page 3 of the memorandum (Page 77 of the packet), amending the recommendation to the self-insured rate from "approve the 8.3% premium increase for the UHC POS plan" to "approve the 6.5% premium increase for the UHC Medicare Complement plan."

Ms. McDonald shared that M-NCPPC sent out a Request for Proposal (RFP) for a new Legal Services Plan vendor. U.S. Legal Services will replace Legal Resources, effective January 1, 2016.

**ACTION:** Motion of Wells-Harley to approve the Open Enrollment and Benefit Plans Proposed Rates – 2016, with the amendment to the 6.5% premium increase for the UHC Medicare Complement plan.  
Seconded by Geraldo  
7 approved the motion

- g) PERSONNEL MANAGEMENT REVIEW (PMR) (Spencer/Glover)  
Human Resources Director Spencer and Program Manager Jeanette Glover presented highlights of the Personnel Management Review (PMR) FY14 Summary Report. Ms. Glover reviewed trends regarding the agency's workforce, changing demographics, turnover, recruitment fill times, hires and promotions, compensation data, and other information as contained in the meeting packet.
- h) UPDATE TO SMOKING POLICIES (PRACTICE 2-22) (Bennett/Thom-Grate)  
CPMO Division Chief Bennett introduced Corporate Policy and Corporate Records Manager Janis Thom-Grate. Ms. Bennett and Ms. Thom-Grate presented the "Recommended Updates to Administrative Practice 2-22, No Smoking in M-NCPPC Offices, Facilities, and Vehicles". Ms. Bennett briefed Commissioners on the existing policy and asked them to consider proposed amendments. She shared that the existing policy is quite comprehensive and already bans smoking and the use of other types of tobacco (lighted and unlighted) in all enclosed facilities/offices and vehicles. The policy also applies the ban to any outdoor facilities that are specifically identified by Department Heads for their respective facilities.

Ms. Bennett reviewed the Commission packet which included drafted amendments, research and applicable regulations, and reviewer comments.

Ms. Bennett explained two substantive changes were being proposed to incorporate:

- Recently-passed State law which enacts a broader ban on the use of lighted tobacco products on all property under the M-NCPPC governance. This ban would no longer require individual outdoor facilities to be specifically

designated, as it would cover all facilities, parking areas, and parks. The law goes into effect October 1, 2015, but allows M-NCPPC until June 30, 2016, to implement the prohibition through the issuance of regulations, notice to the public, and postings of signage.

- Prohibitions on e-cigarettes in enclosed facilities and vehicles. A blanket ban on outdoor facilities was not being proposed; however, the amendment would allow Department Heads to identify outdoor facilities as appropriate. Ms. Bennett explained that while there are no State or federal laws banning the use of e-cigarettes, a number of municipalities (including Montgomery County) have enacted restrictions on their use. This change is recommended for December 1, 2015, to allow adequate time for communication of policy.

Both amendments were reviewed in work sessions with Department Heads to include discussion of application, implementation concerns, and effective dates. The proposals were also reviewed by the Executive Committee who supported both policy amendments. Additionally, employee comment was sought on the e-cigarette ban. Nine comments were submitted. All but one reviewer supported a restriction on the use of e-cigarettes. The Municipal and County Government Employees Organization (MCGEO) is in agreement with the policy on e-cigarettes. Executive Director Barney has been in communication with the Fraternal Order of Police (FOP) president, who does not feel the ban will be an issue.

Corporate Policy and Corporate Records Manager Janis Thom-Grate presented additional background on timing and scope of four policy recommendations:

- 1) Policy Recommendation: Implement State law effective June 30, 2016, to permit necessary public notice, communication of standards to employees, and signage.
- 2) Policy Recommendation: Implement e-cigarette ban effective December 1, 2015, to permit necessary communications on the policy.
- 3) Policy Recommendation: Use distinct standard signage to assist the agency in properly communicating and delineating prohibitions on the use of tobacco and e-cigarettes.
- 4) Policy Recommendation: Implement minimum distance standards from entrances/windows/ventilation systems of facilities. Ms. Thom-Grate noted that management supported the following language be included in the policy, and requested approval from the Commissioners, as well:

“The use of e-cigarettes and lighted tobacco shall not be permitted near entrances, operable windows, and ventilation systems of agency offices/facilities. Signs will be clearly posted at entrances to agency offices/facilities and at locations reasonably calculated to inform employees of the prohibition.”

Ms. Thom-Grate indicated that a workgroup would be established to identify appropriate minimum distances. Commissioner Dreyfuss raised concerns with the establishment of minimum distance standards.

He suggested the policy simply state that no smoking will be permitted near an entrance of the building, rather than having work sessions to specify actual distances for every facility, as there may be inconsistency between facilities and across departments. Ms. Bennett and Ms. Thom-Grate addressed concerns from the Commissioners about minimum distance standards and its enforcement. Commissioner Dreyfuss recommended that this issue be monitored and if, over time, it is discovered that distance requirements need to be implemented, that it be addressed at that time. Following additional discussion of this area, Commissioners agreed to the recommendation proposed by Commissioner Dreyfuss.

Commissioner Presley shared her support for the e-cigarette proposal, as it did not place a prohibition on all outdoor areas. This recognizes that some employees may use e-cigarettes to assist them in quitting smoking of tobacco cigarettes.

Commissioners recommended that managers and Department Heads meet to review the designation of locations where e-cigarettes may be prohibited. This would encourage greater consistency across the agency.

Ms. Bennett acknowledged that there may be some implementation challenges that have not yet been identified. Her team will work with Department Heads, and if there are substantive issues with regards to implementation of the policy, her team will advise the Commission.

ACTION: Motion of Presley to approve policy proposal with recommended change in language on prohibitions near entrances of buildings.  
Seconded by Wells-Harley  
7 approved the motion

#### ITEM 6

##### OFFICERS' REPORTS – (Taken out of order)

###### a) Executive Director (Bennett for Barney)

###### Employee Evaluations Not Completed by Due Date (July/August 2015) (For Information Only)

CPMO Division Chief Bennett presented the report on behalf of Executive Director Barney. She stated late evaluations are being worked on by departments.

###### b) Secretary-Treasurer (Zimmerman)

###### 1. Enterprise Resource Planning (ERP) Briefing (For Information Only)

Secretary-Treasurer Zimmerman presented the briefing. He stated the agency continues to move forward. Payroll processes are smoothing out. The ERP team is working on management self-service pieces for the Human Capital Module.

Management self-service will allow Departments to update the records without sending paper copies to the Human Resources Division. Submitting paper records slows down the process and increases the chance for errors. Reporting is better with Enterprise Financial Management (EFM); however, there are still



issues with Capital Improvement Plan (CIP) reporting. Vice-Chair Anderson commented that in the future, he would be interested in getting an understanding of all the functionality that will eventually be available with the Enterprise Resource Planning (ERP) system, and the timeline of implementation in light of the challenges. Secretary-Treasurer Zimmerman will provide that information.

2. MFD 4<sup>th</sup> Quarter Report

The report was included in the packet; there was no discussion on this topic.

c) GENERAL COUNSEL (Dickerson for Gardner)

1. Litigation Report - (July/August 2015) (For Information Only)

Principal Counsel William Dickerson presented the report on behalf of General Counsel Gardner. In addition to the Litigation Report contained in the meeting packet, Mr. Dickerson added that a lawsuit was filed by People for the Ethical Treatment of Animals (PETA) and a citizen. The suit sought a temporary restraining order to stop a deer management bow hunt on the Montgomery Parks Department property. The Court denied the temporary restraining order and there likely will be a hearing on a request for a preliminary injunction at some point. Vice-Chair Anderson requested the Legal Department post information on the website about M-NCPPC's reason for the deer management program.

At 11:27 a.m., Vice-Chair Anderson requested a motion to move to closed session to hear the Vendor Transition Briefing.


- ITEM 7 Pursuant to Section 3-305(b)(1)(i)(ii) and (b)(7), of the General Provisions Article of the Annotated Code of Maryland, a closed session is proposed to discuss (b)(1)(i) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction; or (ii) any other personnel matter that affects one or more specific individuals; (b)(7) consult with counsel to obtain legal advice.
- Vendor Transition Briefing (King/Butler, PFM, Inc.)

ACTION: Motion of Geraldo  
Seconded by Presley  
7 Approved the motion to move to closed session

The closed session moved to open session at 11:44 a.m., and Vice-Chair Anderson requested a motion to adjourn the meeting.

ACTION: Motion of Anderson to adjourn the meeting  
Seconded by Bailey  
7 Approved the motion

There being no further business to discuss, the meeting adjourned.

  
Gayla I. Williams, Senior Technical Writer/  
Senior Management Analyst

  
Patricia Colihan Barney, Executive Director